

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

CRISTOBAL ALVAREZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CAUSE NO.: 2:17-cv-00414-JVB-JEM
)	
ATLANTIC RICHFIELD COMPANY, et al.,)	
)	
)	
Defendants.)	
)	

JOINT STATUS REPORT

Pursuant to this Court’s December 2, 2019 Order (Dkt. 100), Plaintiffs and Defendants (the “Parties”) hereby notify the Court of the resolution of the appeal in *Sherrie Baker, et al. v. Atlantic Richfield Company, et al.*, Nos. 19-3159, 19-3160 (7th Cir. filed Oct. 30, 2019) (the “*Baker Appeal*”). On June 18, 2020, the U.S. Court of Appeals for the Seventh Circuit reversed this Court’s order in *Baker et al. v. Atlantic Richfield Company et al.*, No. 2:17-cv-00429-JVB-JEM, Dkt. 85 (N.D. Ind.) granting the plaintiffs’ motion to remand. A copy of the opinion is attached as Exhibit A.

The Court previously denied Defendants’ motions to dismiss Plaintiffs’ complaint as moot with leave to refile pending resolution of the *Baker Appeal*. Dkt. 101. The Parties have differing views about what should happen next.

Plaintiffs’ Position

It has been more than two years since Defendants’ original motions to dismiss were fully briefed. Although this Court denied those motions without prejudice pending the resolution of the *Baker Appeal*, it was understood that the Seventh Circuit’s decision in *Baker*, which

addressed only a jurisdictional issue, would have no impact on this case. Given the amount of time that Plaintiffs have been waiting to move forward with the litigation, Plaintiffs believe that the existing briefing should simply be reinstated and that the Court should issue a decision as soon as possible. Of course, the Parties should be free to notify the Court of any supplemental authority that has been decided since the motions were fully briefed. Plaintiffs do not believe that it is necessary to delay this matter further by the creation of a new briefing schedule. Plaintiffs' proposed Order lifting the stay and reinstating the motions and briefs is attached as Exhibit B.

Defendants' Position

Defendants respectfully request that the Court enter an order lifting the stay in this case and set a briefing schedule requiring Defendants to refile their motions to dismiss within 30 days from the date of an order lifting the stay, with Plaintiffs' oppositions due 30 days after Defendants' motions to dismiss, and replies due 21 days after Plaintiffs' opposition. Any request for oral argument shall be filed together with the motions to dismiss, opposition briefs, or reply briefs. Defendants' original motions to dismiss were filed over two years ago, and Defendants request the opportunity to update their briefs to incorporate any relevant decisions that have been issued in the intervening period. Rather than reinstating briefing that is out-of-date and setting a schedule for supplemental briefing, the Court should simply order the parties to file revised briefs incorporating any new law or argument. Doing so would not cause any significant delay to the proceedings, and would reduce the number of filings the Court must consider in deciding the motions to dismiss. Defendants' proposed Order lifting the stay and setting forth a briefing schedule for the refiling of Defendants' motions to dismiss is attached as Exhibit C.

Dated: July 2, 2020

s/ Diana E. Reiter

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2020, I electronically filed the forgoing on CM/ECF. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Diana E. Reiter
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